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26 UNITED STATES DISTRICT COURT
27 CENTRAL DISTRICT OF CALIFORNIA

28 ASFIKE KOLLOUKIAN,
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30 Plaintiff,
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32 v.
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34 UBER TECHNOLOGIES, INC.,
35
36 Defendant.

Case No. CV 15-2856-PSG-JEM

**DEFENDANT'S REPLY IN
SUPPORT OF MOTION TO STAY
PROCEEDINGS PENDING
APPEAL OF THE FCC'S OMNIBUS
ORDER TO THE UNITED STATES
COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA AND
SPOKEO V. ROBINS**

Date: December 21, 2015
Time: 1:30 p.m.
Courtroom: 880
Judge: Hon. Philip S. Gutierrez

1 Since Uber filed its Motion to Stay these proceedings, the justifications for a
2 stay have only been amplified.

3 *First*, a number of additional courts have agreed—many after Uber filed its
4 stay motion—that a stay is warranted during the pendency of the D.C. Circuit’s
5 review of the FCC’s Omnibus Order and the Supreme Court’s review of whether a
6 plaintiff that suffers no concrete harm has standing in federal court (*Spokeo v.*
7 *Robins*). *See, e.g., Gensel v. Performant Techs.*, No. 13-C-1196, 2015 WL
8 6158072 (E.D. Wisc. Oct. 20, 2015) (continuing stay of TCPA litigation pending
9 resolution of the petitions appealing the Omnibus Order to the D.C. Circuit); *Eric*
10 *B. Fromer Chiropractic, Inc. v. N.Y. Life Ins. & Annuity Corp.*, No. CV 15-04767-
11 AB (JCX), 2015 WL 6579779 (C.D. Cal. Oct. 19, 2015) (staying putative TCPA
12 class action pending outcome of *Spokeo* and another case pending before the
13 Supreme Court); *Duchene v. Westlake Servs., LLC*, No. 2:13-CV-01577, 2015 WL
14 5947669 (W.D. Pa. Oct. 13, 2015) (same); *Boise v. ACE USA, Inc.*, No. 15-CIV-
15 21264, 2015 WL 4077433 (S.D. Fla. July 6, 2015) (same).

16 *Second*, by specifying that she does not oppose Uber’s stay motion, Plaintiff
17 has consented to a stay and has effectively admitted that she will not suffer
18 prejudice from the stay. *See, e.g., Love v. The Mail on Sunday*, No.
19 CV057798ABCPJWX, 2006 WL 4046180, at *9 (C.D. Cal. Aug. 15, 2006) (“The
20 Court deems Plaintiff’s non-opposition as consent to granting the motion.”).
21 Accordingly, there is no reason to deny Uber’s unopposed request for stay, where a
22 stay will conserve the Court’s and the parties’ resources.

23 *Third*, subsequent developments in both appeals have made clear that the
24 length of the requested stay will be modest. The initial brief in the consolidated
25 D.C. Circuit appeal has already been filed and the briefing will be complete in
26 February 2016, with a ruling expected soon thereafter. The *Spokeo* argument took
27

1 place before the United States Supreme Court on November 2, 2015, and a decision
2 is expected in short order.

3 Uber therefore respectfully requests that the Court grant its unopposed
4 motion to stay proceedings pending the D.C. Circuit's review of the Omnibus Order
5 and the Supreme Court's review of *Spokeo v. Robins*. Given that Plaintiff does not
6 oppose the motion, Uber submits herewith a revised proposed order for the Court's
7 consideration.

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9 DATED: December 2, 2015

PERKINS COIE LLP

10 By: /s/ James Snell

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